

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:

Janice Harris Cole aka Janice Harris

Debtor(s)

Case No.: 18-26152

Chapter: 13

Hearing Date: 2/19/19

Judge Carol A. Doyle

NOTICE OF MOTION

TO: Tom Vaughn, Chapter 13 Trustee, 55 E. Monroe, Suite 3850, Chicago, IL 60603 by electronic notice through ECF
 Janice Harris Cole aka Janice Harris, Debtor(s), 2018 South 24th Avenue, Broadview, IL 60155
 Johnny B. Cole, Co-Debtor, 2018 S 24Th Ave
 Arnold G Kaplan , Attorney for Debtor(s), 111 W. Washington St., Suite 1360 , Chicago, IL 60602 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 2/19/19, at 9:30AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Carol A. Doyle, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 742, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on February 8, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on February 8, 2019.

/s/ Joel P. Fonferko
 Attorney for Movant

Berton J. Maley ARDC#6209399
 Rachael A. Stokas ARDC#6276349
 Gloria C. Tsotsos ARDC#6274279
 Peter C. Bastianen ARDC#6244346
 Joel P. Fonferko ARDC#6276490
 Laura A. Hrisko ARDC#6230993
Codilis & Associates, P.C.
 15W030 North Frontage Road, Suite 100
 Burr Ridge, IL 60527
 (630) 794-5300
C&A FILE (14-17-09846)

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on February 8, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on February 8, 2019.

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Janice Harris Cole aka Janice Harris, Debtor(s), 2018 South 24th Avenue, Broadview, IL 60155

Johnny B. Cole, Co-Debtor, 2018 S 24Th Ave

Arnold G Kaplan , Attorney for Debtor(s), 111 W. Washington St., Suite 1360 , Chicago, IL 60602 by electronic notice through ECF

/s/ Joel P. Fonferko
Attorney for Movant

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NOTE: This law firm is a debt collector.

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY

NOW COMES U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA, NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-1, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 2018 S 24Th Ave, Broadview, IL 60155;

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 9/17/18;

4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtor(s) is/are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 02/04/2019, the Debtor(s) is/are past due for the 12/1/18 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 02/04/2019, the total post-petition default through and including 2/1/19, is \$2,328.98, which includes a suspense credit of \$577.56. Any payments received after this date may not be reflected in this default. This amount includes post-petition attorney fees in the amount of \$1,031.00;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

9. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$850.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
\$181.00 for Court filing fee

10. Attached are redacted copies of any documents that support the motion for relief, such as promissory notes, purchase order, invoices, itemized statements of running accounts,

contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

11. That the subject note and mortgage are co-signed by Johnny B. Cole and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Johnny B. Cole and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

WHEREFORE, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA, NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-1 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this February 8, 2019.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Joel P. Fonferko

Berton J. Maley ARDC#6209399

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